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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/376,811      | 08/18/1999  | JOSEPH C. JENNIGES   | 494.004US1          | 6977             |

21186 7590 05/20/2003

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EXAMINER

GORT, ELAINE L

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3627

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/376,811

Applicant(s)

JENNIGES ET AL.

Examiner

Elaine Gort

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 6-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 6, 10, 14-19 and 21-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Ho et al. (US Patent 6,120,300).

Ho et al. discloses the claimed method for providing incentive. Ho et al. discloses a method for storing predetermined goal data of a participant, the goal data including at least one minimum threshold level of performance, where the goal data further comprises an identification of one of the at least one minimum threshold level of performance as a desired level of performance (Ho system stores goal data established

by instructor or other individual/sponsor which includes threshold levels and desired levels of performance e.g. milestones and rewards representing desired levels of performance; capable of quantifying by measuring anticipated performance—scoring system; student can establish desired level of performance relative to rewards); storing historical performance data of participant (e.g. performance data used in performance analysis); comparing historical performance data to the goal data and generating a result indicating progress toward goal (e.g. performance analysis and determination of reward; quantitative analysis; storage of reward data) and transmitting results (e.g. report given to instructor and participant); generates and stores a list of eligible participants (eligible participants are ones (students and instructors) capable of using system which give consent when begin using system); issuing of award (instructor or sponsor provides award); perquisite (student given perks as awards—reward medium or access to reward generator which generates reward); and modifying the predetermined goal data using performance data (system adapts for student for self education and system provides instructor feedback to adjust goals and threshold levels based on students performance).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 and 6-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al. in view of Noori.

Ho et al. discloses the claimed method (as best understood) but is silent relating to the use of the method for providing incentives for sales, safety compliance, efficiency, cost-savings, display installation, demonstrations, and time goals. Noori discloses that it is known in the art to provide a reward system for all of these factors in order to encourage employees to act in a manner consistent with the firm's goals and objectives and to attract and keep high-quality employees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method of Ho et al. with the incentives for sales, safety compliance, efficiency, cost-savings, display installation, demonstrations, and time goals of Noori, in order to encourage employees to act in a manner consistent with the firm's goals and objectives and to attract and keep high-quality employees.

Regarding the participant setting goals, it is old and well known in the art of personal motivation for individuals to establish their own goals and establish awards for themselves to motivate themselves to act in a desired manner. For example, it is well known that individuals reward themselves for hard work with nice meals, breaks, chats with friends, or other things they enjoy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the above method to incorporate individuals participating in developing their own goals and awards in order to motivate themselves to act in a manner consistent with their ambitions.

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-4 and 6-25 have been considered but are moot in view of the new ground(s) of rejection.

Examiner believes that potential areas of clarification leading to an allowance may exist and Examiner invites Applicant to an in-person interview to further discuss these areas.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

EG

  
May 6, 2003

 5/16/03  
MICHAEL CUFF  
PRIMARY EXAMINER